

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DAMIEN WILLIAMS,)	
)	Civil Action No. 06-991
Plaintiff,)	
)	Judge Thomas Hardiman/
vs.)	Magistrate Judge Lisa
)	Pupo Lenihan
The Honorable R. STANTON WETTICK,)	
and The Honorable JAMES JOSEPH,)	
)	
Defendants)	
)	
)	
)	

MEMORANDUM ORDER

The above-captioned prisoner civil rights complaint was received by the Clerk of Court on July 25, 2006, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation (Doc. No. 4), filed on August 3, 2006, recommended that the complaint be dismissed pursuant to the PLRA for failure to state a claim. Service was made on the Petitioner at **SCI Fayette, P.O. Box 9999 Labelle, PA 15450**. The parties were informed that in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.1.4(B) of the Local Rules for Magistrates, that they had ten (10) days to file any objections. On August 16, 2006,

Plaintiff filed Objections to the Magistrate Judge's Report and Recommendation. (Doc. No. 7). These objections have been found to be without merit. One objection in particular bears note. The report found that as to Plaintiff's request for a declaratory judgment against Judge Wettick, Plaintiff essentially sought to have this court declare that Judge Wettick's actions in the past violated his rights. Plaintiff objects, saying that he seeks a declaration that Judge Wettick violated his rights because Judge Wettick had, as of the date Plaintiff was writing his objections to the Report and Recommendation, i.e., August 13, 2006, still failed to rule on his preliminary objections motion which were filed on March 11, 2004 and so he is not seeking a declaration concerning merely past actions but present actions. However, a review of the docket from the Allegheny County Court of Common Pleas, of which this court takes judicial notice,¹ shows that on June 28, 2005, Judge Wettick entered an order dismissing **all** pending motions and petitions. Irrespective of this, as the report points out, state court judges are not proper party defendants under Section 1983 for their adjudicatory actions. See, e.g., In re Justices of the Supreme Court of Puerto Rico, 695 F.2d 17, 22-23 (1st Cir. 1982). After review of the pleadings and the documents in the case, together with the Report and Recommendation and Petitioner's Objections, the following order is entered:

AND NOW, this 7th day of September, 2006;

IT IS HEREBY ORDERED that the complaint is
DISMISSED.

IT IS FURTHER ORDERED that the Report and
Recommendation (Doc. No. 4), filed on August 3, 2006 by
Magistrate Judge Lenihan, is adopted as the opinion of the court.

Thomas M. Hardiman

Thomas M. Hardiman
United States District Court Judge

cc: Lisa Pupo Lenihan
United States Magistrate Judge

Damien Williams
BE-5923
SCI Fayette
P.O. Box 9999

¹ The docket of Plaintiff's state case is available at:

<http://prothonotary.county.allegheny.pa.us/allegheeny/CaseDetails.asp?AnotherCaseID=TRUE&CaseID=GD-00-001535&ComingFromWelcomeScreen=&BeginDate=&EndDate=&From=>